

Update: Juvenile Traffic Benchbook (Revised Edition)

CHAPTER 2

Taking Custody of a Juvenile and Investigating a Criminal Traffic Offense

2.4 Investigating a Juvenile's Alleged "Drunk Driving" Offense

B. Chemical Testing of Blood, Breath, or Urine

Insert the following text after the third paragraph on page 23:

Neither dismissal nor suppression of the evidence is the appropriate remedy when a police officer violates MCL 257.625a(6)(d) by depriving a defendant of his or her right to a reasonable opportunity for an independent chemical test under MCL 257.625a(6)(d). *People v Anstey*, ___ Mich ___, ___ (2006). Rather, "when the trial court determines that the defendant was deprived of his or her right to a reasonable opportunity for an independent chemical test under MCL 257.625a(6)(d), the court may instruct the jury that the defendant's statutory right was violated and that the jury may decide what significance to attach to this fact." *Anstey, supra* at ___. The Michigan Supreme Court so ruled because "suppression of the evidence is not an appropriate remedy for a statutory violation where there is no indication in the statute that the Legislature intended such a remedy and no constitutional rights were violated." *Id.* at ___. As a result of the Court's ruling in *Anstey*, *People v Koval*, 371 Mich 453, 459 (1963) and its progeny, which held that noncompliance with MCL 257.625a required dismissal, are overruled. *Anstey, supra* at ___.